COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: 84/LM/Nov02

In the large merger between:

Old Mutual South Africa Limited

and

BoE Life Assurance Company Limited

Reasons for Decision

APPROVAL

On 19 December 2002 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between Old Mutual South Africa Limited and BoE Life Assurance Company Limited in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The acquiring firm is Old Mutual South Africa Limited ("OMSA"), the holding company for all Old Mutual Plc's South African operations, excluding asset management.[1] It is controlled by Old Mutual Plc. Its subsidiaries include Old Mutual Life Assurance Company (South Africa) Limited ("OMLACSA") and a 18% shareholding in Nedcor Limited ("Nedcor") as well as an indirect shareholding of 33% via OMLACSA.

2. The target firm is BoE Life Assurance Company Limited ("BoEL"). It is controlled by BoE and ultimately controlled by Nedcor.

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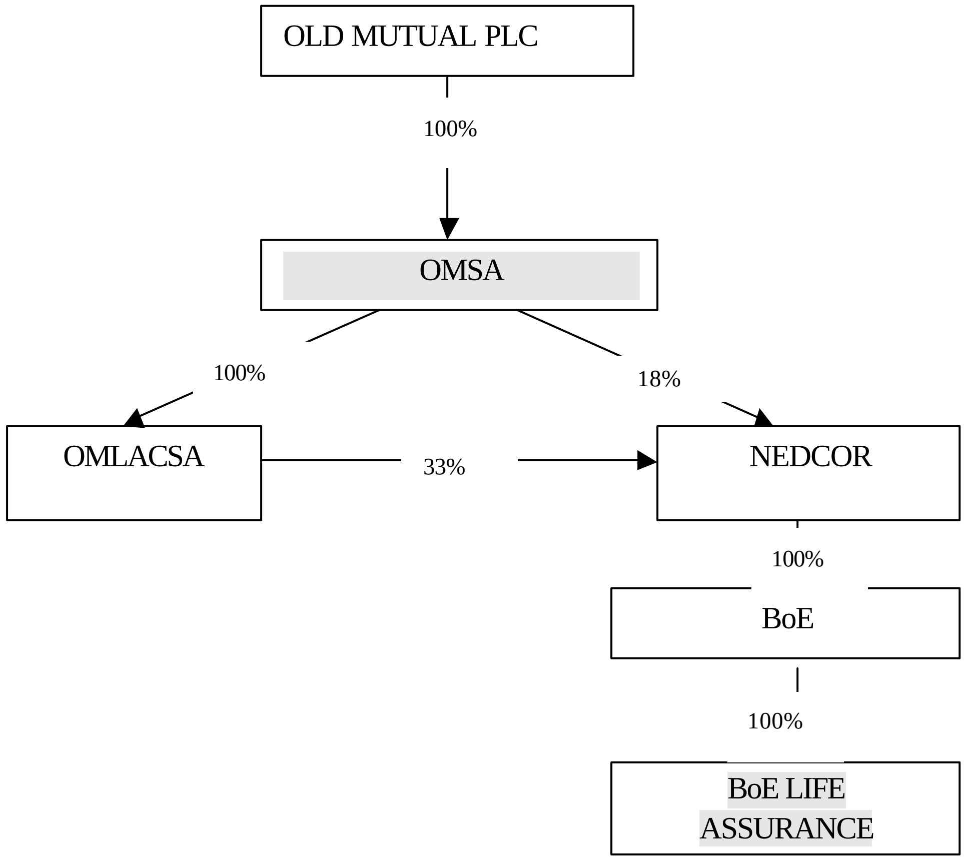
[1] According to the parties, OM's shareholding structure comprises principally historically disadvantaged persons in pursuance of SA Mutual Life Assurance Society's demutualisation in 1999.



The Merger Transaction

3. The transaction comprises a restructuring of the Nedcor group pursuant to its acquisition of BoE. This will be achieved through the formation of a joint venture vehicle in the credit protection assurance business, initially to operate as "BoE Life"[2]. Nedcor will focus and channel all credit life activities within the Nedcor group to this joint venture. OMSA is acquiring a 50% interest in BoEL. Nedcor will retain the other 50% in the company. Accordingly, post-merger Nedcor and OMSA will jointly control BoEL, although Nedcor will retain operational control of BOEL

Rationale for the Transaction

4. There is a duplication of capability as far as life assurance is concerned, pursuant to Nedcor's acquisition of BoE. This is a restructuring, occurring within the same group of companies, since Old Mutual ultimately controls

[2] This is defined in the MOU as any life risk product which is ceded to or owned by the debt originator as security against the client's debt and which is not distributed through financial planners and does not require financial advice.

Nedcor. Effectively, Nedcor is selling 50% of its stake in a subsidiary to another division within the Old Mutual group, obviously because of the synergy in their operations. BoE life is reverting to focus on its core competency, credit life assurance. BoE will therefore discontinue its non-credit life (general life assurance) products and focus on selling credit life products to customers of Nedcor and its subsidiaries.

The Relevant Market

5. Both BoEL and OMLACSA are registered long-term insurers. Both companies provide life assurance in one form or another. There is a general market for life assurance. It is possible to also consider that credit life assurance is a separate relevant market from the rest of general life assurance. We do not need to decide which is correct but we will for this reason examine the effect of this merger firstly on the assumption that there is a relevant market for general life assurance, and then a separate relevant market for credit life assurance.

- **General Life Assurance**

Within this market, the Commission could further segment this market into individual and group life assurance, although the segmentation has no significant result. The Commission limited its analysis to individual life assurance products, since, it maintains, OMLASA's participation in group life assurance is extremely limited. The combined market share in respect of general life assurance is 27.5%.[3] The pre-merger HHI is 1901.50, with a post-merger HHI of 1928.50, therefore the change in concentration is a mere 27. The combined market share in respect of individual life assurance is apparently approximately 29.6%.

- **Credit Life Assurance**

This is a subset of the total life assurance market. It refers to the provision of life assurance by banks or other finance providers to customers. Specific amounts are insured for a specific term. There are six types of credit life assurance products, including, but not limited to mortgage protection, personal and retail loans and installment sale and lease finance. Though they are sold to cover different categories of loans, not all these loans, however, have credit life policies attached. Credit life assurance is designed to ensure the credit grantor against various contingencies, i.e. life (death) cover, disability cover and critical illness cover. The combined market share in respect of credit life assurance is approximately 6.7% (BoE Life only adding 0.7%). The parties state that the bigger competitors in this sector are ABSA Life and Charter Life, with Hollard Insurance Company Limited, Regent Life Assurance Company

[3] According to the latest Annual Financial Statements of the relevant companies.

Limited and Pinnafrica Life Limited following. The parties estimated BoEL's ranking somewhere around sixth position. Precise market share information was apparently unavailable on account of same either being not separately disclosed or subject to confidentiality.

Geographic market

6. The market is national since both firms provide these products across the country.

Impact on competition

7. Post this transaction, BoEL will focus on credit life products and OMLACSA on general life assurance products. The main object of the JV will be to sell credit protection assurance products to customers and clients of Nedcor and its subsidiaries.

8. However, there is provision in the MOU that "the JV will require consent by the Board of Directors to sell credit protection products to parties other than customers and clients of Nedcor and its subsidiaries." The Tribunal was concerned that this could raise the possibility of foreclosure of other firms competing in credit and general life from the Nedcor client base. However there is a panel of insurers in respect of all categories of credit life assurance comprising competing firms such as Hollard Insurance Company Limited, Regent Life Assurance Company Limited and Pinnafrica Life Limited. Furthermore section 44 of the Long Term Insurance Act mandates freedom of choice of a particular insurer. Therefore, Nedcor customers will have a choice to buy life assurance from any provider other than BoE.

Public Interest

9. The number of likely retrenchments as a result of the merger are estimated at 25 employees and these are limited to skilled and semi-skilled employees.

Conclusion

This is an internal restructuring and there is no significant competitive change from the status quo. In any event, there is a very insignificant accretion of market share in each case. We conclude that the merger will not lead to a substantial lessening of competition. There are no public interest concerns which would alter this conclusion for the reasons stated above. The merger is therefore approved unconditionally.

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N. Manoim

4 February 2003
Date

Concurring: D.Lewis, M. Holden

For the merging parties:	Edward Nathan Friedland Attorneys
For the Commission:	K. Ramathula, N. Barnabas, Competition Commission